

Notice of Allowability

Application No.

10/688,727

Examiner

Steven D. Maki

Applicant(s)

HEINEN, RICHARD

Art Unit

1733

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 8-25-05.
2. ☒ The allowed claim(s) is/are 1,3-9 and 11-16.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413), Paper No./Mail Date 110905.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

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Examiner's Amendment

1) An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

In claim 1:

line 5 after "the cavern having" insert --a roof and--

line 7 delete --being provided with--

line 7 after "an indicator" insert --being provided on the cavern base--

lines 8-9 change "a symbol, or a color" to --or a symbol having a shape indicating the state of wear of the tread--

In claim 7:

line 4 change "in the sidewalls" to --in a sidewall of one of the tread elements or sidewalls--

line 4 after "the series having" insert --a roof and--

lines 5-6 delete --the cavern base being provided with--

line 6 after "an indicator" insert --being provided on the cavern base--

line 7 change "a symbol, or a color" to --or a symbol having a shape indicating the state of wear of the tread--

Add new claims 15 and 16:

15. The tread of claim 1 wherein the indicator is made in a color contrasting with the tread color.

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16. The tread of claim 7 wherein the indicator is made in a color contrasting with the tread color.

2) Authorization for this examiner's amendment was given in a telephone interview with Nancy Krawczyk on 11-9-05.

Reasons for Allowance

3) The following is an examiner's statement of reasons for allowance:

Japan 812 (JP 10-76812) and Japan 711 (JP 10-315711) disclose a tire tread comprising a tread element having a cavern in a radially extending side thereof wherein the cavern has a roof and a cavern base parallel to the uppermost surface of the tread element. However, Japan 812 and Japan 711 fail to teach providing structure on the cavern base. The prior art of record fails to motivate one of ordinary skill in the art to modify either Japan 812 or Japan 711 such that an indicator is provided on the cavern base to indicate the state of wear of the tread and the indicator is in the form of a number, a numerical fraction or a symbol having a shape indicating the state of wear of the tread.

German 832 (DE 3627832) discloses a tire tread having a slot 4 open to the tread surface wherein the bottom of the slot 4 is stepped and each step is provided with a number for indicating wear. German 832 fails to teach a cavern having a roof. The prior art of record fails to completely reconfiguring German 832's wear indicator such that the resulting tread comprises a cavern having a roof.

Kornelis et al (WO 00/66372) and Japan 414 (2000-289414) teach a tire tread having a wear indicator comprising relatively shallow recesses (caverns) in a radially

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extending sidewall of a tread element wherein each cavern has a roof and a cavern base. See for example figure 3 and 4 of Kornelis et al. Kornelis et al and Japan 414 teach shaping the perimeter of the indicator on the sidewall of the tread element into a shape such as a number for indicating the state of wear of the tread. See figures 1-10 of Japan 414 and figure 7 of Kornelis et al. However, Kornelis et al and Japan 414 fail to teach providing structure on a cavern base, which is parallel to the uppermost surface of the tread element. There is no motivation to modify Kornelis et al or Japan 414 with German 832 such that the cavern base of Kornelis et al or Japan 414's tread is parallel to the uppermost surface of the tread element and an indicator is provided on the cavern base to indicate the state of wear of the tread wherein the indicator is in the form of a number, a numerical fraction or a symbol having a shape indicating the state of wear of the tread.

The prior art of record whether taken singly or in combination fails to suggest a cavern having a roof and a base parallel to the uppermost surface of the tread element and an indicator being provided on the cavern base to indicate the state of wear of the tread wherein the indicator is in the form of a number, a numerical fraction or a symbol having a shape indicating the state of wear of the tread in combination with the remaining subject matter of claim 1 or claim 7.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

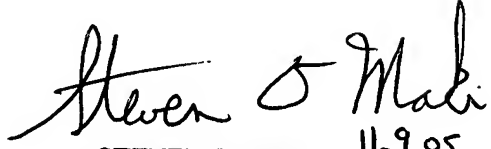
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4) Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven D. Maki whose telephone number is (571) 272-1221. The examiner can normally be reached on Mon. - Fri. 8:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Dunn can be reached on (571) 272-1171. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Steven D. Maki
November 9, 2005


STEVEN D. MAKI
PRIMARY EXAMINER
11-9-05